



United States Department of the Interior

NATIONAL PARK SERVICE

1849 C Street, N.W.

Washington, D.C. 20240

IN REPLY REFER TO:

September 28, 2011

Re: **The Foundry at Washington Park, 44-70 Johnes Street, Newburgh, New York**
Project Number: 24865

Dear :

I have concluded my review of your appeal of the decision of Technical Preservation Services (TPS), National Park Service, denying certification of the rehabilitation of the property cited above. The appeal was initiated and conducted in accordance with Department of the Interior regulations (36 CFR Part 67) governing certifications for Federal income tax incentives for historic preservation as specified in the Internal Revenue Code. I thank you, _____, and _____ for meeting with me in Washington on June 14, 2011, and for providing a detailed account of the project. After discussing the denial issues, at the conclusion of the appeal meeting, the parties agreed that you would study the issues further and that I would defer my decision on the appeal until you had the opportunity to submit additional information for my consideration.

After careful review of the complete record for this project, including the additional information and revisions submitted after our meeting, I have determined that the project revisions proposed subsequent to our meeting and compiled in a Part 2 amendment dated September 7 and 8, 2011, will suffice to bring the overall impact of the proposed rehabilitation into conformance with the Secretary of the Interior's Standards for Rehabilitation (the Standards), if carried out as described. Therefore, the denial issued by TPS on May 21, 2011, is hereby reversed.

Built between 1884 and 1890, with additions into the early 20th century, the Foundry at Washington Park is located in the East End Historic District. The property was certified as contributing to the significance of the district on June 22, 2010. The in-progress rehabilitation of this "certified historic structure" was found not to meet the Standards owing to new windows installed or proposed that were deemed incompatible with the historic industrial character of the building. Also cited by TPS was the insertion of new floors that bisected the windows in several places. I concur with TPS that the rehabilitation set forth in the original Part 2 application—and cited by that office in its decision dated May 21, 2011—was not consistent with the historic character of the property and the historic district in which it is located, and that the rehabilitation thus described and partially undertaken failed to meet the Standards.

Prior to rehabilitation, the historic Foundry building wrapped around an entire block with a large central courtyard. Typical of 19th-century industrial complexes, it had hundreds of windows of multiple types (some wood, some metal), with different pane configurations, and set in numerous configurations (single windows paired in some sections, paired windows in others, and multiple windows and panels set in multi-story arched openings). In the rehabilitation work initially presented to the State Historic Preservation Office and TPS, many of the existing historic windows had already been replaced with new ones that did not match the ones removed. In other openings, windows were missing or were existing non-historic ones. In these cases, the proposed replacement windows were determined to be incompatible with the property's historic character. As a result, TPS cited the work as not meeting Standards 2 and 5. Standard 2 states: "*The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.*" Standard 5 states: "*Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a historic property shall be preserved.*"

I agree with this assessment. In almost every case, windows are a primary character-defining feature of historic buildings, and the windows inserted or proposed here did not meet these Standards. I would add that the new windows replacing extant historic ones also caused the project to contravene Standard 6. It states: "*Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence.*"

I also agree with TPS that other proposed treatments fall short of the Standards. The infill proposed for the two-story arched opening in the courtyard elevation is domestic in character rather than industrial. As a result, this treatment falls short of Standard 2, cited above. And the new floors extending directly to and across the multi-story window openings would add an intrusive visible element that fails to meet Standard 2 (cited above), as well as Standard 9, which states: "*New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.*"

However, as stated above, the multiple submissions by _____ since our meeting have presented satisfactory solutions to each of these denial issues. Accordingly, I have approved and signed the Part 2 amendment compiling these changes. It is enclosed. Thank you for your willingness to modify the proposal to help assure the preservation and reuse of this notable historic property.

Although the rehabilitation as revised now meets the Secretary of the Interior's Standards for Rehabilitation, the project will only be designated a "certified rehabilitation" after all work is approved following its completion. As Department of the Interior regulations state, my decision is the final administrative decision with respect to the May 21, 2011, denial that TPS issued regarding rehabilitation certification. Should you have any questions concerning procedures for final certification, please contact _____.

A copy of this decision will be provided to the Internal Revenue Service. Questions concerning specific tax consequences of this decision or interpretations of the Internal Revenue Code should be addressed to the appropriate office of the Internal Revenue Service.

Sincerely,

A handwritten signature in black ink, appearing to read "John A. Burns". The signature is fluid and cursive, with a large initial "J" and "B".

John A. Burns, FAIA
Chief Appeals Officer
Cultural Resources

Enclosure

cc: SHPO-NY
IRS